

AMENDED IN SENATE AUGUST 15, 2016

AMENDED IN SENATE AUGUST 4, 2016

AMENDED IN ASSEMBLY MARCH 17, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1864

**Introduced by Assembly Member Cooley
(Coauthor: Assembly Member Cooper)**

February 10, 2016

An act to amend Section 27491.41 of, and to add Section 27491.42 to, the Government Code, relating to inquests.

LEGISLATIVE COUNSEL’S DIGEST

AB 1864, as amended, Cooley. Inquests: sudden unexplained death in childhood.

Existing law states that the Legislature finds and declares that sudden infant death syndrome, as defined, is the leading cause of death for children under age one. Existing law requires the coroner to, among other things, perform an autopsy, within 24 hours or as soon thereafter as feasible, in any case where an infant has died suddenly and unexpectedly.

This bill would define “sudden unexplained death in childhood” as the sudden death of a child one year of age or older but under 18 years of age that is unexplained by the history of the child and for which a thorough postmortem examination fails to demonstrate an adequate cause of death. The bill would require the coroner to notify the parent or responsible adult of a child within that definition about the importance of taking tissue samples. The bill would also exempt the coroner from liability for damages in a civil action for any act or omission done in

compliance with these provisions. The bill would make other, nonsubstantive, changes.

By expanding the duties of a local agency, this bill would create a state-mandated local program.

This bill would incorporate additional changes to Section 27491.41 of the Government Code, proposed by SB 1189, to be operative only if SB 1189 and this bill are both chaptered and become effective on or before January 1, 2017, and this bill is chaptered last.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 27491.41 of the Government Code is
- 2 amended to read:
- 3 27491.41. (a) For purposes of this section, “sudden infant
- 4 death syndrome” means the sudden death of any infant that is
- 5 unexpected by the history of the infant and where a thorough
- 6 postmortem examination fails to demonstrate an adequate cause
- 7 of death.
- 8 (b) The Legislature finds and declares that sudden infant death
- 9 syndrome, also referred to as SIDS, is the leading cause of death
- 10 for children under age one, striking one out of every 500 children.
- 11 The Legislature finds and declares that sudden infant death
- 12 syndrome is a serious problem within the State of California, and
- 13 that the public interest is served by research and study of sudden
- 14 infant death syndrome and its potential causes and indications.
- 15 (c) (1) To facilitate these purposes, the coroner shall, within
- 16 24 hours or as soon thereafter as feasible, perform an autopsy in
- 17 any case where an infant has died suddenly and unexpectedly.
- 18 (2) However, if the attending physician desires to certify that
- 19 the cause of death is sudden infant death syndrome, an autopsy
- 20 may be performed at the discretion of the coroner. If the coroner

1 performs an autopsy pursuant to this section, he or she shall also
2 certify the cause of death.

3 (d) The autopsy shall be conducted pursuant to a standardized
4 protocol developed by the State Department of Public Health. The
5 protocol is exempt from the procedural requirements pertaining
6 to the adoption of administrative rules and regulations pursuant to
7 Article 5 (commencing with Section 11346) of Chapter 3.5 of Part
8 1 of Division 3 of Title 2 of the Government Code.

9 (e) The protocol shall be followed by all coroners throughout
10 the state when conducting the autopsies required by this section.
11 The coroner shall state on the certificate of death that sudden infant
12 death syndrome was the cause of death when the coroner's findings
13 are consistent with the definition of sudden infant death syndrome
14 specified in the standardized autopsy protocol. The protocol may
15 include requirements and standards for scene investigations,
16 requirements for specific data, criteria for ascertaining cause of
17 death based on the autopsy, and criteria for any specific tissue
18 sampling, and any other requirements. The protocol may also
19 require that specific tissue samples shall be provided to a central
20 tissue repository designated by the State Department of Public
21 Health.

22 (f) The State Department of Public Health shall establish
23 procedures and protocols for access by researchers to any tissues,
24 or other materials or data authorized by this section. Research may
25 be conducted by any individual with a valid scientific interest and
26 prior approval from the State Committee for the Protection of
27 Human Subjects. The tissue samples, the materials, and all data
28 shall be subject to the confidentiality requirements of Section
29 103850 of the Health and Safety Code.

30 (g) The coroner may take tissue samples for research purposes
31 from infants who have died suddenly and unexpectedly without
32 consent of the responsible adult if the tissue removal is not likely
33 to result in any visible disfigurement.

34 (h) A coroner shall not be liable for damages in a civil action
35 for any act or omission done in compliance with this section.

36 (i) Consent of any person is not required before undertaking the
37 autopsy required by this section.

38 SEC. 1.5. Section 27491.41 of the Government Code is
39 amended to read:

1 27491.41. (a) For purposes of this section, “sudden infant
2 death syndrome” means the sudden death of any infant that is
3 unexpected by the history of the infant and where a thorough
4 postmortem examination fails to demonstrate an adequate cause
5 of death.

6 (b) The Legislature finds and declares that sudden infant death
7 syndrome, also referred to as SIDS, is the leading cause of death
8 for children under age one, striking one out of every 500 children.
9 The Legislature finds and declares that sudden infant death
10 syndrome is a serious problem within the State of California, and
11 that the public interest is served by research and study of sudden
12 infant death syndrome and its potential causes and indications.

13 (c) (1) To facilitate these purposes, the coroner shall, within
14 24 hours or as soon thereafter as feasible, cause an autopsy to be
15 performed in any case where an infant has died suddenly and
16 unexpectedly.

17 (2) However, if the attending licensed physician and surgeon
18 desires to certify that the cause of death is sudden infant death
19 syndrome, an autopsy may be performed at the discretion of the
20 coroner. If the coroner causes an autopsy to be performed pursuant
21 to this section, he or she shall also certify the cause of death.

22 (d) The autopsy shall be conducted pursuant to a standardized
23 protocol developed by the State Department of Public Health. The
24 protocol is exempt from the procedural requirements pertaining
25 to the adoption of administrative rules and regulations pursuant to
26 Article 5 (commencing with Section 11346) of Chapter 3.5 of Part
27 1 of Division 3 of Title 2 of the Government Code.

28 (e) The protocol shall be followed by all coroners throughout
29 the state when conducting an evaluation as part of an autopsy
30 required by this section. The coroner shall state on the certificate
31 of death that sudden infant death syndrome was the cause of death
32 when the coroner’s findings are consistent with the definition of
33 sudden infant death syndrome specified in the standardized autopsy
34 protocol. The protocol may include requirements and standards
35 for scene investigations, requirements for specific data, criteria
36 for ascertaining cause of death based on the autopsy, and criteria
37 for any specific tissue sampling, and any other requirements. The
38 protocol may also require that specific tissue samples shall be
39 provided to a central tissue repository designated by the State
40 Department of Public Health.

(f) The State Department of Public Health shall establish procedures and protocols for access by researchers to any tissues, or other materials or data authorized by this section. Research may be conducted by any individual with a valid scientific interest and prior approval from the State Committee for the Protection of Human Subjects. The tissue samples, the materials, and all data shall be subject to the confidentiality requirements of Section 103850 of the Health and Safety Code.

(g) ~~The coroner or licensed physician and surgeon~~ may take tissue samples for research purposes from infants who have died suddenly and unexpectedly without consent of the responsible adult if the tissue removal is not likely to result in any visible disfigurement.

(h) A coroner or licensed physician and surgeon shall not be liable for damages in a civil action for any act or omission done in compliance with this section.

(i) Consent of any person is not required before undertaking the autopsy required by this section.

SEC. 2. Section 27491.42 is added to the Government Code, to read:

27491.42. (a) For purposes of this article, “sudden unexplained death in childhood” means the sudden death of a child one year of age or older but under 18 years of age that is unexplained by the history of the child and where a thorough postmortem examination fails to demonstrate an adequate cause of death.

(b) The coroner shall notify the parent or responsible adult of a child described in subdivision (a) about the importance of taking tissue samples.

(c) A coroner shall not be liable for damages in a civil action for any act or omission in compliance with this section.

SEC. 3. Section 1.5 of this bill incorporates amendments to Section 27491.41 of the Government Code proposed by both this bill and Senate Bill 1189. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2017, (2) each bill amends Section 27491.41 of the Government Code, and (3) this bill is enacted after Senate Bill 1189, in which case ~~Section 27491.41~~ *1* of this bill shall not become operative.

SEC. 4. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made

- 1 pursuant to Part 7 (commencing with Section 17500) of Division
- 2 4 of Title 2 of the Government Code.

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